

information and notify the person of his or her decision.

(b) If a person receives a written warning from a Regional Attorney or staff attorney, or receives a decision from a Regional Attorney affirming a written warning, the person may appeal the warning or decision to the NOAA Assistant General Counsel for Enforcement and Litigation. The appeal must be brought within 30 days of receipt of the warning or decision from the Regional Attorney. The Assistant General Counsel for Enforcement and Litigation may, in his or her discretion, affirm, expunge, or modify the written warning and will notify the person of the decision. The decision constitutes the final agency action.

(c) The addresses of the NOAA Regional Attorneys are:

Regional Counsel, Office of General Counsel,  
NOAA, 14 Elm Street, Federal Building,  
Gloucester, MA 01930

Regional Counsel, Office of General Counsel,  
NOAA, 9450 Koger Blvd., Suite 102, St. Petersburg, FL 33702

Regional Counsel, Office of General Counsel,  
NOAA, Bin C15700, 7600 Sandpoint Way,  
NE., Seattle, WA 98115

Regional Counsel, Office of General Counsel,  
NOAA, 300 South Ferry Street, Room 2013,  
Terminal Island, CA 90731

Regional Counsel, Office of General Counsel,  
NOAA, P.O. Box 1668, Juneau, AK 99802

The address of the Assistant General Counsel for Enforcement and Litigation is 1825 Connecticut Avenue NW., Suite 607, Washington, DC 20235.

## **Subpart F—Seizure and Forfeiture Procedures**

### **§ 904.500 Purpose and scope.**

(a) This subpart sets forth procedures governing the release or forfeiture of seized property (except property seized and held solely as evidence) that is subject to forfeiture under the various statutes administered by NOAA.

(b) Except as provided in this subpart, these regulations apply to all seized property subject to forfeiture under the statutes listed in Subpart A. This subpart is in addition to, and not in contradiction of, any special rules regarding seizure, holding or disposition of property seized under these statutes.

### **§ 904.501 Notice of seizure.**

Except where the owner, consignee, or other party that the facts of record indicate has an interest in the seized property is personally notified, or where seizure is made under a search warrant, NOAA will, as soon as practicable following the seizure or other receipt of seized property, mail notice of the seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known or easily ascertainable, or other party that the facts of record indicate has an interest in the seized property. The notice will describe the seized property and state the time, place and reason for the seizure. The notice will inform each interested party of his or her right to apply for remission or mitigation of the forfeiture (including any agreement that may be required under § 904.506(b)(2)(vii)). The notice may be combined with a notice of the sale of perishable fish issued under § 904.505.

### **§ 904.502 Bonded release.**

NOAA may, in its sole discretion, release any seized property upon deposit with NOAA of the full value of the property or such lesser amount as NOAA deems sufficient to protect the interests served by the applicable statute. The deposit will be held in a NOAA suspense account, or deposited with the appropriate court, pending the outcome of forfeiture proceedings. In addition, NOAA may, in its sole discretion, accept a bond or other security in place of fish, wildlife, or other property seized. The bond will contain such conditions as NOAA deems appropriate. The provisions of § 904.506(f) apply to NOAA's determination whether to release the property. The deposit or bond will for all purposes be considered to represent the property seized and subject to forfeiture.

### **§ 904.503 Appraisement.**

NOAA will appraise seized property to determine its domestic value. Domestic value means the price at which such or similar property is offered for sale at the time and place of appraisement in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, the value in the principal market nearest

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the place of appraisal will be used. If the seized property may not lawfully be sold in the United States, its domestic value will be determined by other reasonable means.

**§ 904.504 Administrative forfeiture proceedings.**

(a) *When authorized.* This section applies to property that is determined under § 904.503 to have a value of \$100,000 or less, and that is subject to administrative forfeiture under the applicable statute. This section does not apply to conveyances seized in connection with criminal proceedings.

(b) *Procedure.* (1) NOAA will publish a notice of proposed forfeiture once a week for at least three successive weeks in a newspaper of general circulation in the Federal judicial district in which the property was seized. However, if the value of the seized property does not exceed \$1,000, the notice may be published by posting for at least three successive weeks in a conspicuous place accessible to the public at the National Marine Fisheries Service Enforcement Office, United States District Court, or the United States Customs House nearest the place of seizure, with the date of posting indicated on the notice. In addition, a reasonable effort will be made to serve the notice personally, or by registered or certified mail, return receipt requested, on each person whose whereabouts and interest in the property are known or easily ascertainable.

(2) The notice of proposed forfeiture will:

- (i) Describe the seized property, including any applicable registration or serial numbers;
- (ii) State the time, place and reason for the seizure; and
- (iii) Describe the rights of an interested person to file a claim to the property (including the right to file a motion to stay administrative forfeiture proceedings and to petition to remit or mitigate the forfeiture).

(3)(i) Except as provided in paragraph (b)(4) of this section, any person claiming the seized property may file a claim with NOAA, at the address indicated in the notice, within 20 days of the date the notice was first published

or posted. The claim must state the claimant's interest in the property.

(ii) Except as provided in paragraph (b)(3)(v) or (b)(4) of this section, a bond for costs in the penal sum of \$5,000 or 10 per cent of the appraised value of the property, whichever is lower, but not less than \$250, with sureties satisfactory to the Administrator, must be filed with the claim for seized property. The bond may be posted on Customs form 4615 or a similar form provided by NOAA. There must be endorsed on the bond a list or schedule in substantially the following form, signed by the claimant in the presence of witnesses, and attested by the witnesses:

List or schedule containing a particular description of seized article, claim for which is covered by the within bond; to wit:

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The foregoing list is correct.

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Claimant

Attest:

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A certified check may be substituted for a bond.

(iii) Filing a claim and posting a bond does not entitle the claimant to possession of the property. However, it does stop administrative forfeiture proceedings.

(iv) If the claim and bond are filed timely in accordance with this section, NOAA will refer the matter to the Attorney General to institute forfeiture proceedings in the appropriate United States District Court.

(v) Upon satisfactory proof of financial inability to post the bond, NOAA may waive the bond requirement for any person claiming an interest in the seized property.

(4) Instead of, or in addition to, filing a claim and bond under paragraph (b)(3) of this section, any person claiming the seized property may file with NOAA within 20 days after the date of first publication or posting of the notice of proposed forfeiture, a motion to stay administrative forfeiture proceedings. The motion must contain: